IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CONTEMPT PETITION NO. 378 OF 2004

IN

CIVIL APPLICATION NO. 969 OF 2003

IN

FIRST APPEAL NO. 127 OF 2000

The Union of India & Ors. ... Petitioners

Versus

Indira Market Kamgar Seva Samiti & Ors. Respondents

Mr. J.C.Satpute for the Appelalnts.

Mr. Sachin Dhakephalkar for Respondent No.7.

CORAM: A.M.KHANWILKAR,J.

DATE : 8th February, 2007.

P.C.

1. Heard Counsel for the parties.

2. The grievance in this Petition is of willful disobedience of the order passed by this Court on 25th

April, 2003, in particular, non-compliance of the undertaking given by the Respondents to this Court. This argument however, overlooks that the Petitioners had taken out Civil Application No. 3767 of 2003 which was allowed in terms of prayer clause (c). The order dated 3rd February, 2004 passed on the said Civil Application clearly records that the Respondents have no objection to allow the Court Receiver to demolish the construction in excess of the original carpet length of the suit premises mentioned in the schedule annexed to the plaint. It is not the case of the Petitioners that the Respondents caused obstruction to the demolition work undertaken by the Court Receiver in terms of the order dated 3rd February, 2004. According to the Respondents, the Court Receiver, in fact, proceeded with the demolition of unauthorised work and has completed that process.

3. Counsel for the Petitioners however, submits that the demolition is not in conformity with the undertaking gien by the Respondents before this Court as contained in the report dated 25th April, 2003. This grievance will have to be answered against the

Petitioners on two counts. In the first place,

demolition has not been done by the Respondents. Besides, the Respondents have not obstructed the demolition work carried out under the supervision of the Court Receiver in any manner. If the Petitioners have any grievance about incomplete demolition of the unauthorised structure, the appropriate course for the Petitioners is to take up the matter before this Court in the main proceedings. But surely, it cannot be said to be a case of wilful disobedience by the Respondents.

Hence, the Petition is disposed of in the above terms. Notice issued to the Respondents stands discharged.

4. All other contentions between the parties are left open to be decided by the appropriate Court.

(A.M.KHANWILKAR,J.)